

the
phoenix
2022

**OFFICIAL TERMS & CONDITIONS
AND SLOT HOLDING AGREEMENT**

go to www.thephoenix.melbourne for more information



1.) Definitions and Interpretation

a. In these Terms:

Agreement means these Terms and if applicable, the Slot Holding Details attached to these Terms.

Australian Consumer Law means the Australian Consumer Law set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Victoria, Australia.

Claim means a demand, action or proceeding of any nature whether actual or threatened.

Consequential Loss means any loss of revenue, loss of goodwill, loss of customers, loss of capital, downtime costs, loss of profit, loss of or damage to reputation, loss under or in relation to any other contract, loss of anticipated savings or benefits, or any indirect, consequential or special loss, damage, cost or expense or other Claim for consequential compensation.

Corporations Act means the Corporations Act 2001 (Cth).

Dealing Deadline has the meaning given in clause 7.)b.

Defaulting Party has the meaning given in clause 6.)a.

Deposit has the meaning given in clause 4.)i.

Eligible Greyhound means a greyhound with minimum GRV greyhound racing points at time of nomination of 160 or lower, excluding maiden greyhounds.

Field Announcement has the meaning given in clause 2.)d.

Final Reserves means the two (2) greyhounds selected from the Reserve Pool as Final Reserves in the final official field for the Race under clause 9.)f.

Force Majeure means anything outside the reasonable control of a party, including acts of God, fire, storm, flood, earthquake, lightning, explosion, accident, war, rebellion, insurrection, sabotage, civil or military disturbance, epidemic, pandemic, quarantine restrictions, labour dispute, labour shortage, transportation embargo, acts of terrorism, failure or delay in transportation, or restraint or restrictions of any governmental, semi-governmental or other public or statutory authority.

GRV means Greyhound Racing Victoria.

GRIU means the GRV Greyhound Racing Integrity Unit.

GST means the goods and services tax payable under *the A New Tax System (Goods and Services Tax) Act 1999* (Cth) and related legislation.

IAP means the Independent Assessment Panel referred to in clause 4.)a.

Insolvency Event has the meaning given in clause 6.)c.

Intellectual Property Rights means all intellectual property rights, whether or not they are registered or capable of being registered, including the following rights:

i. patents, copyright, rights in circuit layouts, designs, trade and service marks (including goodwill in those marks), domain names and trade names and any right to have confidential information kept confidential;

ii. any application or right to apply for registration of any of the rights referred to in paragraph (1); and

iii. all rights of a similar nature to any of the rights in paragraphs (1) and (2) that may subsist anywhere in the world (including Australia).

Law means any statute, regulation, by law, ordinance or subordinate legislation in force from time to time, the common law and equity as applicable from time to time and any applicable industry codes of conduct or codes of practice.

Loss means any liability, loss, cost (including legal costs on a solicitor and own client basis, whether incurred by or awarded against the relevant party), expense, damage or charge, and including Consequential Loss or any such cost, expense, penalty, fine, loss, damage, charge or liability that is incurred in connection with a Claim, including the defence or settlement of that Claim.

MGRA means The Melbourne Greyhound Racing Association.

MGRA IP means any Intellectual Property Rights made available by MGRA to the Slot Holder for the purposes of this Agreement, including any trade marks (whether registered, unregistered or the subject of an application for registration) owned by MGRA.

Notice has the meaning given to that term in clause 19.)e.

Personal Information has the meaning given in the *Privacy Act 1988* (Cth).

Phoenix Challenge means the [Special Event] race involving two (2) Eligible Greyhounds to be conducted [by MGRA] on the same night and at the same venue as the Race.

Phoenix Committee means the committee established by MGRA to oversee the administration, monitoring and implementation of the Race.

Private Arrangement has the meaning given in clause 8.)a.

Race has the meaning given in clause 2.)a.

Race Acceptance Time has the meaning given in clause 8.)b.

Related Body Corporate has the meaning given to it in section 50 of the Corporations Act.

Representatives means, in relation to a person or entity, its officers, employees, contractors, agents, advisers or financiers.

Reserve Greyhound means any greyhound in the Reserve Pool or the Final Reserves.

Reserve Pool means the pool of Eligible Greyhounds referred to in clause 9.)c. and announced in the Field Announcement.

Rules has the meaning given in clause 2.)b.

Slot means an entitlement given to a person to enter an eligible greyhound into the Race in accordance with these Terms.

Slot Dealing has the meaning given in clause 7.)b.

Slot Fee means A\$100,000 plus any GST payable.

Slot Holder means any person or entity holding a Slot.

Slot Holder Trade Marks means the Slot Holder's trade marks (whether registered, unregistered or the subject of an application for registration) owned by the Slot Holder.

Slot Holding Details means the document granting a Slot to the Slot Holder to be signed by MGRA and the Slot Holder and attached to these Terms.

Terms means these terms and conditions.

b. Words and terms defined in the Slot Holding Details and the Rules shall have the same meanings when used in these Terms.

c. If there is inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of any inconsistency:

i. the Slot Holding Details;

ii. the Terms;

iii. any documents incorporated by reference in this Agreement.

d. Headings are for ease of reference only and do not affect interpretation.

2.) THE PHOENIX

a. MGRA will conduct a race called The Phoenix (**Race**), run over a distance of 525 metres at The Meadows, Broadmeadows, Victoria on Saturday night, 17 December 2022, subject to these Terms.

b. The Race will be conducted as a Special Event. Save for any specific rules regarding the Special Event (for example in relation to the Box Draw), the Race will be conducted in accordance with the National Rules, known as the Greyhounds Australasia National Rules as adopted by the GRV Board and the GRV Local Rules of Racing (**Rules**), a copy of which is available from GRV's website at <https://greyhoundcare.grv.org.au/rules-of-racing>.

c. The Race will have a maximum of eight starters, comprising:

i. Eight Eligible Greyhounds; and

ii. Two Reserve Greyhounds,

to be determined by GRV under the Rules and these Terms.

d. The final field for the Race will be announced, including the Reserve Pool, and the Box Draw, on Sunday 11 December 2022 (**Field Announcement**).

3.) PRIZEMONEY

- a. Prizemoney will be not less than A\$1,650,000 plus trophies and rug. Subject to the Rules, the allocation of prizemoney by finishing position will be determined by GRV and notified to the Slot Holder, owner and/or trainer. The prizemoney for each finishing position will be finalised taking account the following allocation, subject to GRV's determination and the Rules:
- i. 1st = A\$1,000,000 plus trophies and rug
 - ii. 2nd = A\$200,000
 - iii. 3rd = A\$150,000
 - iv. 4th = A\$100,000
 - v. 5th to 8th = A\$50,000.
- b. GRV will allocate the prizemoney in accordance with clause 8.)e).

4.) APPLICATION FOR SLOTS

- a. Slots will be allocated by means of an application and assessment process managed by the Independent Assessment Panel (**IAP**).
- i. The IAP will be established by MGRA with the prior written approval of the GRIU and will comprise of at least three independent voting members including the Chair.
- ii. No Director of MGRA will sit on the IAP.
 - iii. The Chief Executive Officer of MGRA will sit as a non-voting member of the IAP.
- b. Applications for Slots open at 9am on Monday 25 July 22 and close at 5:00pm on Friday 26 August 2022.
- c. Applications may be submitted online via the form available at <http://www.thephoenix.melbourne> or via email to thephoenix@grv.org.au or in person at the offices of MGRA (80 Northcorp Boulevard, Broadmeadows Victoria, 3047).
- d. All applications must include a completed application form including all required fields on MGRA's website, addressing all selection criteria.
- e. The IAP may request in writing any further information and documents from any applicant as reasonably necessary for the purposes of the IAP assessment of that applicant or that applicant's application for a Slot and the applicant must provide that further information to the IAP within 5 Business Days from receiving the written request from the IAP.
- f. Incomplete applications (including any applications where the applicant has failed to respond to a request for further information from the IAP under clause 4.)e) will be invalid and will not be considered by the IAP.
- g. By submitting an application for a Slot, applicants acknowledge they have read these Terms and agree to be bound by them.
- h. Individuals, entities and organisations may apply for one of the eight available Slots. No Slot Holder will be eligible to hold more than one Slot in the Race. Multiple applications on behalf of the same applicant (or any Related Body Corporate of that applicant) will be disqualified. In the instance of multiple applications, the first entry in order of date received by MGRA will be considered for that applicant and any Related Body Corporate of that applicant.
- i. Subject to clause 4.)m, a deposit of \$10,000 plus GST being 10% of the Slot Fee (**Deposit**) is payable upon lodgement of an application.
- j. The IAP will assess and rank preferred applicants for a Slot based on the selection criteria set by the Phoenix Committee and select eight successful applicants for a Slot.
- k. The IAP will provide details of the preferred applicants to the GRIU who may reject any application in its absolute discretion. If GRIU rejects any application, the applicant in that application will be disqualified from holding a Slot.
- l. The eight successful applicants for a Slot will be announced on Friday 9 September 2022 (**Announcement Date**).
- m. The Deposit will be fully refunded within five Business Days of the Announcement Date if the application to which that Deposit relates is unsuccessful in obtaining a Slot. The Deposit will not be refunded and will form part of the Slot Fee in accordance with clause 5.)b) if the application to which that Deposit relates is successful in obtaining a Slot.
- n. For applications to be considered, the Deposit must be received by 11:59pm on Tuesday 30 August 2022.
- o. To the extent permitted by Law, MGRA does not take responsibility for any applications not received for whatever reason.

5.) SLOT FEE

- a. In consideration of payment of the Slot Fee in full, the Slot Holder will be entitled to an entry in the Race subject to these Terms.
- b. The Slot Fee is to be paid in two instalments to MGRA as follows:
- i. payment of the Deposit in accordance with clause 4.)i); and
 - ii. payment of the balance of the Slot Fee (A\$90,000 plus GST) to be paid by 11:59pm on Friday 16 September 2022.

6.) DEFAULT

- a. If an Insolvency Event occurs in respect of the Slot Holder or if the Slot Holder commits a material breach of these Terms, including, without limitation, any Slot Dealing in breach of clause 7.) or a default by the Slot Holder in payment of the Slot Fee by the dates specified in clause 5.)b) (**Defaulting Party**), MGRA may:
- i. immediately terminate the Slot held by the Defaulting Party with written notice and the Defaulting Party will forfeit any monies already paid and their slot in the Race;
 - ii. recover any outstanding Slot Fee(s) arising from termination of the Slot as a debt due and payable to MGRA by the Defaulting Party including by setting-off any monies due to the Defaulting Party by MGRA; and
 - iii. offer (in the order of the highest ranked applications to the lowest ranked applications as determined by the IAP under clause 4.)j) a new Slot to a different party until a new Slot Holder is approved and makes the required payments (but MGRA is under no obligation to do so).
- b. The Defaulting Party will be deemed ineligible to apply for a slot for any future editions of The Phoenix in subsequent years.
- c. An Insolvency Event occurs in respect of the Slot Holder if any one or more of the following events occurs:
- i. a resolution is passed for the winding up of the Slot Holder (other than for the purposes of reconstruction or amalgamation, which, in the case of a party, is on terms which have been previously approved in writing by MGRA);
 - ii. a liquidator, provisional liquidator or receiver or receiver and manager is appointed to all or any part of the property of the Slot Holder;
 - iii. a receiver or receiver and manager is appointed to, or a mortgagee takes possession of, all or any part of the business or assets of the Slot Holder;
 - iv. the Slot Holder ceases, or threatens to cease to carry on its business;
 - v. the Slot Holder becomes unable to pay its debts as and when they become due; or
 - vi. any event analogous or equivalent to the events described in this sub-clause occurs in respect of the Slot Holder.

7.) SLOT DEALINGS

- a. Subject to clause 4.)h, the Slot Holder (and any person(s) holding an economic interest in the Slot as contemplated in clause 7.)b) can be any number of persons or entities approved by the Phoenix Committee in writing in their absolute discretion.
- b. A Slot Holder may on-sell, assign, transfer, lease or deal with in other commercial ways their Slot (**Slot Dealing**) at any time prior to Monday 31 October 2022 (**Dealing Deadline**) subject to the following conditions:
- i. MGRA receives prior written notice of the intention to carry out the Slot Dealing including an explanation of how the transferee will meet the criteria set out in the initial Slot Holder's application and the terms of the relevant Slot;
 - ii. The Phoenix Committee provide prior written approval to the proposed Slot Dealing to the proposed transferee (which may be given or withheld in their absolute discretion);
 - iii. MGRA provides details of the proposed Slot Dealing to the GRIU and the GRIU does not object to any proposed Slot Dealing for any reason; and
 - iv. The proposed transferee of the Slot signs a new Agreement and agrees in writing to be bound by these Terms.
- c. Without limiting the absolute discretion of the Phoenix Committee in clauses 7.)a) and 7.)b), the Phoenix Committee can refuse to provide their approval if the ownership structure or proposed Slot Dealing (including, but not limited, to any dealing with the economic interest of the Slot) would or may, in the opinion of the Phoenix Committee, be in breach of any Law or result in MGRA being subjected to an undue compliance burden in order to comply with any legal or regulatory requirements. Further, the Slot Holder (and any person(s) holding an economic interest in the Slot as contemplated in clause 7.)b) or any Related Body Corporate of such person) is not to have a beneficial interest in more than one Slot in any year at any one time, without the written approval of the Phoenix Committee in their absolute discretion.
- d. The Slot Holder is to provide the Phoenix Committee with all information and documents reasonably required by the Phoenix Committee for the purposes of exercising its discretion under clauses 7.)a) and 7.)b), such information and documents to be provided on a timely basis and within sufficient time for the Phoenix Committee to determine whether to provide their written approval by the Dealing Deadline.
- e. If, after grant of the Slot or the Phoenix Committee's approval of a Slot Dealing, MGRA becomes aware of any matter, event or occurrence that would have resulted in the IAP or the Phoenix Committee, in their absolute discretion, refusing to grant the Slot or refusing to provide approval to any such Slot Dealing respectively, then MGRA may, in its absolute discretion, terminate the Slot, refund any part of the Slot Fee paid to date and offer a new Slot to a different party (in order of the highest ranked applications to the lowest ranked applications as determined by the IAP under clause 4.)j) but is under no obligation to do so.
- f. For the avoidance of doubt, MGRA's right of termination extends to matters, events or occurrences that occur before or after the relevant grant of Slot or approval of Slot Dealing, provided that neither the IAP or the Phoenix Committee (as the case may be) was aware of such matter, event or occurrence at the time that the Slot was granted in the case of IAP, or the prior approval to the Slot Dealing was given in the case of the Phoenix Committee.

8.) GREYHOUND NOMINATIONS

- a. It is the responsibility of the Slot Holder to negotiate and enter into private deals and commercial arrangements with the relevant greyhound owner and trainer (or any party with an interest or share in the greyhound which, for the avoidance of doubt, includes the economic interest of the Slot) (**Private Arrangement**) and MGRA is not privy to these negotiations and will not be liable for the fulfilment of the Private Arrangement.

- b. The Slot Holder's trainer or owner of the Eligible Greyhound under their Private Arrangement is required to nominate one Eligible Greyhound which will compete in their Slot in the Race by not later than 10:30am (AEST) on Friday 9 December 2022 (**Race Acceptance Time**) with GRV on (03) 8329 1100.
- c. MGRA has the absolute discretion to reject the nomination and acceptance of a greyhound that is not an Eligible Greyhound.
- d. GRV may refuse the nomination and/or acceptance of any greyhound in the Race for any reason permissible under the Rules. If the nomination and/or acceptance of a greyhound in the Race is refused, or the nominated greyhound is disqualified by GRV or its Stewards pursuant to the Rules before the Race Acceptance Time, the Slot Holder may seek to negotiate a new Private Arrangement and the trainer or owner under that new Private Arrangement may nominate one Eligible Greyhound which will compete in their Slot in the Race with GRV by the Race Acceptance Time.
- e. Any prizemoney earned from the Race will be paid in full by GRV to the relevant owner and/or trainer in accordance with the Rules and the nominated arrangements associated with the relevant greyhound lodged with GRV.
- f. The owner and/or trainer referred to in clause 8.)e) will be responsible for distributing that proportion of the prizemoney owing under a Private Arrangement including where there is an agreement as to prizemoney split.
- g. The Slot Holder does not have to be the owner of the greyhound that is entered by it to run in the Race. However, the Slot Holder is still required to comply with the Rules in respect of the greyhound that is entered by it to run in the Race, including but not limited to, the declaration of the interests and shares of all parties in that greyhound which, for the avoidance of doubt, includes the economic interest of the Slot (for example, where there is an agreement as to prizemoney split).
- h. The owner/s and trainer/s of that greyhound (as notified to GRV) retain all the rights and responsibilities under the Rules. In the event of disagreement between those parties and the Slot Holder as to whether the greyhound should be scratched for veterinary reasons, that matter will be determined by GRV in accordance with the Rules.
- i. The Slot Holder releases, waives against and discharges MGRA, to the fullest extent permitted under any Law, from any Claims or Loss arising from, due to or related to any Private Arrangement and indemnifies MGRA against:
 - i. any Claim made against MGRA (including, without limitation, a Claim made by the Slot Holder or any party to a Private Arrangement); or
 - ii. any Loss that MGRA suffers or incurs, which arises as a result of or in connection with any Private Arrangement.

9.) RESERVES AND SCRATCHINGS

- a. Trainers may nominate Eligible Greyhounds for the Reserve Pool for the Race with GRV on (03) 8329 1100 before the Race Acceptance Time (each a **Reserve Pool Nominee**).
- b. By nominating a Reserve Pool Nominee, trainers and owners of that Reserve Pool Nominee acknowledge acceptance of clause 9.)e. and clause 9.)o. below.
- c. Once approved by MGRA at its discretion, each Reserve Pool Nominee will, be included in the final Reserve Pool for the Race (**Reserve Pool**).
- d. The Reserve Pool will be announced by MGRA at the Field Announcement.
- e. Any Reserve Pool Nominee will be automatically nominated to compete in the Phoenix Challenge unless the owner/s or trainer/s of that Reserve Pool Nominee gives written notice withdrawing that automatic nomination prior to the Final Reserves Time.
- f. Subject to clause 9.)j., two (2) Eligible Greyhounds will be selected from the Reserve Pool as reserve positions in the final official field for the Race (**Final Reserves**). The Final Reserves will be declared by GRV after 10.30am on Wednesday 14 December 2022 (**Final Reserves Time**).
- g. If a Slot Holder's nominated greyhound is scratched at any time between the time of the Race Acceptance Time and the Final Reserves Time, the Slot Holder will have up to 180 minutes following GRV's acceptance of the scratching, but not later than the Final Reserves Time, to select one greyhound from the Reserve Pool to run in the Race under these Terms and notify GRV in writing of the selected greyhound from the Reserve Pool.
- h. If a Slot Holder's nominated greyhound is scratched at any time after the Final Reserves Time but not later than 8:30am on the day of the Race, the Slot Holder will have up to 180 minutes following GRV's acceptance of the scratching, but not later than 8:30am on the day of the Race, to select one greyhound from the Final Reserves to run in the Race under these Terms and notify GRV in writing of the selected greyhound from the Final Reserves.
- i. If there is more than one nominated greyhound scratched on or before 8:30am on the day of the Race:
 - i. Preference in selecting a Reserve Greyhound will be determined by the order in which the Slot Holders give written notice of the approved scratching of their nominated greyhound to GRV.
 - ii. The Slot Holder of the second scratching approved by GRV during the period between the Final Reserves Time and 8:30am on the day of the Race will be automatically allocated the remaining greyhound in the Final Reserves.
 - iii. If there is no Reserve Greyhound available, the Slot Holder of any subsequent approved scratching with GRV will be allocated last place prizemoney (\$50,000) and will not have a greyhound represent them in the Race.
- j. Subject to clauses 9.)g. to 9.)i., the Final Reserves will be determined by the GRV Grader at the Final Reserves Time as follows:
 - i. If no nominated greyhounds have been scratched by any Slot Holder, the GRV Grader will select two (2) greyhounds from the Reserve Pool to be the Final Reserves;
 - ii. If one (1) Slot Holder's nominated greyhound has been scratched and the replacement greyhound has been selected by that Slot Holder in accordance with these Terms, the GRV Grader will select one (1) greyhound from the Reserve Pool to be the Final Reserve; and
 - iii. If two (2) or more Slot Holder's nominated greyhounds have been scratched and the replacement greyhounds have been selected by the respective Slot Holders in accordance with these Terms, the GRV Grader will not be required to select a greyhound to be a Final Reserve.
- k. The Final Reserves will not be declared in a specific order and elevation into the final field will be either:
 - i. as per the selections made by Slot Holders prior to Final Reserves Time under clauses 9.)g. and 9.)h.; or
 - ii. at the discretion of any Slot Holder who is eligible to select one of the Final Reserves in the Race under clause 9.)h..
- l. If the relevant Slot Holder fails to give written notice to GRV of the selected greyhound from the Reserve Pool within the timeframe outlined in clause 9.)g. or from the Final Reserves within the time frame outlined in clause 9.)h. (as the case may be), GRV will at its discretion assign an available greyhound from the Reserve Pool or the Final Reserves (respectively) to that Slot Holder on their behalf.
- m. If a Slot Holder's nominated greyhound is scratched at any time between the time of the Field Announcement and 8:30am on the day of the Race:
 - i. a Slot Holder must procure the owner/s or trainer/s of the nominated greyhound to submit a certified veterinary certificate (**Vet Certificate**) to GRV (which must be approved by the Chief Steward at GRV) upon giving written notice of the scratching to GRV; and
 - ii. if the Slot Holder is unable to procure the Vet Certificate upon notifying of the scratching, GRV may require that the nominated greyhound be examined at a designated time and place in accordance with the Rules and if the GRV concludes a greyhound is withdrawn for an unacceptable reason under the Rules, the Slot Holder will be deemed ineligible to select a greyhound from the Reserve Pool or the Final Reserves (as the case may be) to run in the Race and will forfeit the rights to collect any prizemoney from the Race.
- n. If a Slot Holder's nominated greyhound is scratched for any reason from the final field after 8:30am on the day of the Race, the Slot Holder will not be entitled to a runner in the Race and will forfeit the right to collect any prizemoney from the Race.
- o. If a Reserve Greyhound is selected to run in the Race in place of a scratched greyhound, the following terms and conditions are agreed to between the Slot Holder and the owner/s and trainer/s of the Reserve Greyhound:
 - i. The owner/s and trainer/s of the Reserve Greyhound retain all responsibilities under the Rules.
 - ii. If applicable, the Slot Holder will be entitled to retain the race rug, presentation rug and Slot Holder trophy.
 - iii. If applicable, the trainer will receive the trainer trophy.
 - iv. Unless otherwise agreed under a Private Arrangement between the Slot Holder and the owner/s and trainer/s of the Reserve Greyhound, the prizemoney is subject to being divided between the Slot Holder and the owner/s and trainer/s of the Reserve Greyhound in accordance with the following:
 - 1. Where a Reserve Greyhound finishes in 1st place, the Slot Holder will be entitled to 70% of any prizemoney earned in the Race and the owner/s and trainer/s of the Reserve Greyhound will be entitled to 30% of any prizemoney earned in the Race.
 - 2. Where a Reserve Greyhound finishes in 2nd or 3rd place, the Slot Holder will be entitled to an amount equal to the Slot Fee from any prizemoney earned in the Race and the owner/s and trainer/s of the Reserve Greyhound will be entitled to the balance of any prizemoney earned in the Race.
 - 3. Where a Reserve Greyhound finishes in 4th to 8th place, the Slot Holder will be entitled to receive the full amount of the prizemoney earned in the Race and the owner/s and trainer/s of the Reserve Greyhound will not be entitled to any prizemoney earned in the Race.
- p. If the owner/s and trainer/s are entitled to any prizemoney under clause 9.)o.iv., that proportion of the prizemoney must be distributed by GRV amongst the owner/s and trainer/s in accordance with the nominated arrangements associated with that Reserve Greyhound lodged with GRV or if there are no nominated arrangements, in accordance with the Rules.
- q. Each Reserve Greyhound will run from the corresponding scratched greyhound's box.
- r. If GRV receives a GRV veterinary report after the Race Acceptance Time and on or before 8.30am on the day of the Race that a particular greyhound is not, or cannot reasonably be expected to be, fit to compete in the Race, then GRV under the Rules may scratch the greyhound. In these circumstances clause 9.)g. or 9.)h. will then apply (as the case may be) as if the greyhound was scratched with a Vet Certificate approved by GRV.

10.) INTEGRITY

The Slot Holder releases and discharges MGRA, to the fullest extent permitted under any Law, from any Claim or Loss, and indemnifies MGRA against any such Claim against, or for any Loss suffered or incurred by MGRA, including assisting any Slot Holder in recouping damages from owner/s or trainer/s of a disqualified greyhound, as a result of or related to a greyhound being disqualified from the Race or deemed a "non-runner" by GRV Stewards or the GRIU because that greyhound returns a confirmed positive pre or post-race swab or swab irregularity in accordance with the Rules.

11.) OWNERSHIP OF MGRA IP

- a. MGRA grants the Slot Holder a non-exclusive, non-transferable, royalty-free licence (without a right to sub-licence) to use MGRA IP to market and promote the Race and Slot Holder's participation in the Race, subject to the licence conditions in clause 11.)b.
- b. The Slot Holder must obtain the prior written approval to the proposed use of the MGRA IP before using the MGRA IP under clause 11.)a, and in using the MGRA IP, the Slot Holder must:
- i. comply with all reasonable directions of MGRA and any brand guidelines notified to Slot Holder;
 - ii. use its best endeavours to preserve the value and validity of the MGRA IP;
 - iii. not use the MGRA IP for any unlawful purpose or in contravention of the Australian Consumer Law;
 - iv. not use the MGRA IP in a manner which:
 1. would bring the MGRA IP, MGRA or the Race into disrepute or otherwise cause harm to the goodwill attached to the MGRA IP;
 2. is inconsistent with the distinctiveness or reputation of the MGRA IP;
 3. would jeopardise or invalidate any registration (or prejudice any application for registration) of the MGRA IP or could assist or give rise to an application to terminate, revoke or dilute any such registration; or
 4. might prejudice the right or title of MGRA to the MGRA IP.
- c. The Slot Holder agrees and acknowledges that:
- i. MGRA or its relevant third party licensor owns all Intellectual Property Rights in the MGRA IP, including the goodwill attaching to it;
 - ii. except as specified in paragraph (a), MGRA does not grant to the Slot Holder any right or licence to the MGRA IP; and
 - iii. the Slot Holder must not:
 1. use or apply to register anywhere in the world any trade mark, or apply to register or use any business name, company name or internet domain name, that comprises or contains any of the MGRA IP or any words or images that are substantially identical with, or deceptively similar to, any of the MGRA IP, without the prior written consent of MGRA; or
 2. challenge or in any way impugn:
 - a. MGRA's complete ownership of, or rights to use, the MGRA IP; or
 - b. the validity of, or MGRA's title to, any applications for registration made by, or any registrations obtained by, MGRA or any Related Body Corporate of MGRA, in respect of the MGRA IP.
- d. This clause 11.) survives the termination of this Agreement.

12.) PROMOTION, MARKETING, MEDIA AND SPONSORSHIP

- a. The Slot Holder:
- i. grants to MGRA a non-exclusive and royalty free licence to use, reproduce, publish and communicate to the public the Slot Holder Trade Marks; and
 - ii. must procure the written consent of the owner and trainer of their nominated greyhound to use, reproduce, publish and communicate to the public the nominated greyhound's name and images,
- for the purpose of the performance of MGRA's obligations under this Agreement or operating the Race (including for promotion of the Race and advertising purposes, the running of the Race and post-Race coverage as required by MGRA, The Phoenix Committee and GRV or any other organisation approved by MGRA and/or GRV in relation to the Race).
- b. The Slot does not provide any media or sponsorship rights in relation to the Race or in connection with the promotion of the Race, the running of the Race and post-Race coverage of the Race to the Slot Holder and accordingly the Slot Holder cannot grant, sell or licence any media or sponsorship rights in relation to the Race to any third party.
- c. The Slot Holder unconditionally and irrevocably assigns to MGRA on creation all Intellectual Property Rights, media rights and sponsorship rights it may have in connection with the promotion of the Race, the running of the Race and post-Race coverage of the Race including, without limitation, all media and sponsorship rights in respect of the:
- i. name and likeness of the Slot Holder and any owner/s or trainer/s of any greyhound entered in the Race;
 - ii. colours, logos, rugs and any other associated or identifying characteristics of the Slot Holder, owner/s, trainer/s or greyhounds; and
 - iii. any other matter relating to the participation of the greyhound in the Race, as those items relate to the Race.
- d. MGRA may market, promote and advertise the Race which may include, without limitation, televising, broadcasting and/or recording in any manner of the Race and the activities incidental to them, and broadcasting (on any platform including digital platforms), exhibiting and/or exploiting the same by any means now or hereafter including, without limitation, licensing such rights to others for uses approved by MGRA. The Slot Holder hereby expressly, irrevocably and perpetually waives on its behalf and on behalf of its Representatives (including the trainer/s) any and all rights it may have in connection with any matter referred to in this clause. For the avoidance of doubt, this includes any such rights within Australia and internationally.
- e. The Slot Holder may also market and promote the Race and Slot Holder's participation in the Race, with the prior written approval of MGRA and subject to the licence conditions in clause 11.)b. The Slot Holder must obtain MGRA's prior written approval to the proposed use of any promotional or marketing material generated by the Slot Holder in relation to the Race.

13.) CANCELLATIONS AND ALTERATIONS

- a. To the extent permitted by Law (including the Australian Consumer Law), MGRA reserves the right to cancel or alter the Race or alter the conditions of the Race (including the alteration of the Terms, scheduled dates and times, or the date or location for the conduct of the Race) at any time and for any reason at its absolute discretion, without notice, including if:
- i. GRV requires the relevant cancellation or alteration;
 - ii. there is an event of any Force Majeure; or
 - iii. in the case of any proposed alteration, it is reasonably necessary, appropriate or preferable to optimise the Race or any matter related to the Race.
- b. MGRA will notify applicants and any Slot Holders of any cancellation or alteration referred to in clause 13.)a as soon as reasonably practicable and if the Race is cancelled, MGRA will refund all paid Deposits and any instalment of the Slot Fee paid by the relevant slot applicants and/or Slot Holders within five (5) Business Days of the announcement of the cancellation and no prizemoney will be payable.
- c. If there are less than eight 2022 Slots granted and paid for by the Race Acceptance Time, then MGRA may, in its absolute discretion, cancel the Race, terminate this Agreement and refund any instalment of the Slot Fee paid by the Slot Holders within five (5) Business Days of the Race Acceptance Time.

14.) CONFIDENTIALITY

- a. The Slot Holder acknowledges all the information in, or provided by MGRA in relation to, the Agreement, including details of the Race, is confidential and the Slot Holder must not use, copy, modify or disclose such information to any third party (or permit others to do so) without MGRA's prior written consent, other than as necessary for the performance of the Slot Holder's rights and obligations under this Agreement or to the Slot Holder's Representatives who have a reason to know and who agree in writing to comply with the provisions of this clause 14.)
- b. The provisions of this clause 14.) shall not apply to information which:
- i. is or comes into the public domain through no fault of the Slot Holder or its Representatives; or
 - ii. is required by law, by court or governmental order to be disclosed provided that, to the extent permitted by law, prior to any disclosure, the Slot Holder notifies MGRA and, at MGRA's request and cost, assists MGRA in opposing any such disclosure.
- c. The Slot Holder must not, directly or indirectly, disclose any information, make or publish any statement or photograph or do any other thing (whether physically, electronically, verbally, in writing, online or offline) which may disparage, harm, prejudice or adversely affect MGRA's brand or reputation or bring embarrassment and/or disrepute to MGRA in any manner whatsoever, as determined by MGRA in its sole discretion.

15.) PRIVACY

The Personal Information that MGRA collects or has access to in connection with this Agreement (including any Personal Information provided by any applicant for a Slot) will be collected, stored, disclosed and used in accordance with the Privacy Policy found at www.themeadows.org.au. The Slot Holder expressly agrees to the terms and conditions of the Privacy Policy of MGRA as published from time to time. This may include disclosing such Personal Information to a Related Body Corporate of MGRA, GRV, IAP, other third parties and regulatory bodies including but not limited to agents, contractors, service providers, and any company with whom MGRA is conducting the Race. Each applicant for a Slot consents to MGRA collecting and using its Personal Information for promotional purposes if the applicant has consented to this in the application for a Slot and expressly agrees to the secondary disclosure of the Slot Holder's identity for any purpose related to the Race, including but not limited to marketing or promotion of the Race and inclusion on any register of Slot Holders maintained by MGRA.

16.) LIMITATION OF LIABILITY

- a. Nothing in these Terms limits, excludes or modifies or purports to limit, exclude or modify MGRA's liability in relation to the consumer guarantees under the Australian Consumer Law (**Non-Excludable Guarantees Liability**).
- b. Except for any liability that cannot by law be excluded, including the Non-Excludable Guarantees Liability, MGRA (including its respective officers, employees and agents) excludes all liability (including negligence) for any Loss arising in any way out of, or in relation to, the Slot, the conduct, promotion or marketing of the Race or this Agreement, including but not limited to:
- i. any application that is rejected, late, lost, altered, damaged or misdirected (whether or not after their receipt by MGRA) due to any reason beyond the reasonable control of MGRA;
 - ii. MGRA's application assessment process;
 - iii. any variation in prizemoney to that stated in these Terms or any other cancellation or alteration under clause 13.);
 - iv. any Slot Dealing or Private Arrangement;

- v. any tax liability incurred by the Slot Holder, owner or trainer of the greyhound including under any Private Arrangement; and
- vi. any dispute or agreement between the Slot Holder and the owner/s and trainer/s of any greyhound or Reserve Greyhound, including in relation to distribution of prizemoney.
- c. To the extent permitted by Law, all conditions, warranties, guarantees, rights, remedies, liabilities and other terms implied or conferred by Law that impose any liability or obligation on MGRA are excluded under this Agreement.
- d. If a supply under this Agreement is a supply of goods or services to a consumer within the meaning of the Australian Consumer Law, nothing contained in this Agreement excludes, restricts or modifies the application of any provision, the exercise of any right or remedy, or the imposition of any **Non-Excludable Guarantees Liability**, provided that, to the extent that the Australian Consumer Law permits MGRA to limit its liability, then MGRA's liability shall be limited to supplying the Slot again or payment of the cost of having the Slot supplied again.
- e. The Slot Holder releases, waives against and discharges MGRA, to the fullest extent permitted under Law, from any Claims or Loss arising from or due to personal injuries or property damages of any kind or description to any person, property or greyhound owned or controlled by the Slot Holder (or any owner or trainer of any greyhound nominated by the Slot Holder or any Reserve Greyhound) occurring during the Race or related to the Race.

17.) DISPUTE RESOLUTION

- a. This clause 17.) applies to any dispute or difference arising out of, or in any way in connection with, this Agreement, or the conduct of a party in relation to the subject matter of this Agreement at any time (**Dispute**).
- b. A party must not commence any court proceedings in relation to a Dispute unless it first complies with this clause 17.), except:
 - i. to seek urgent interlocutory relief; or
 - ii. if the Dispute relates to a failure by the other party to comply with this clause 17.).
- c. If a Dispute arises, a party may give a notice in writing to the other party (**Dispute Notice**) specifying:
 - i. particulars of the Dispute; and
 - ii. the position which the party believes is correct.
- d. Where a Dispute Notice has been received pursuant to clause 17.)c, the parties must meet as soon as reasonably practicable and negotiate in good faith to attempt to resolve the Dispute informally.
- e. If the parties are unable to resolve the Dispute by negotiation within 10 Business Days after the date of the Dispute Notice, either party may refer the Dispute to:
 - i. the GRV if the Dispute relates to the application or interpretation of the Rules in relation to the Race; or
 - ii. in any other case, mediation in accordance with the rules of mediation of the Australian Disputes Centre, (**Referral**).
- f. If the Dispute is referred to the GRV, the Dispute shall be decided solely by GRV in its absolute discretion in accordance with the Rules.
- g. If the Dispute is referred to mediation and not resolved by mediation within 10 Business Days of the Referral or any longer time which the parties may agree, either party may proceed to seek relief from a court.
- h. The parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement is solely to attempt to settle the Dispute between the parties, and is provided or made on a 'without prejudice' basis.
- i. No party may use any information or documents obtained through the dispute resolution process established by this clause for any purpose other than an attempt to settle such Dispute.

18.) GST

- a. Unless expressly included, the consideration for any supply under or in connection with this Agreement does not include GST.
- b. To the extent that any supply made under or in connection with this Agreement is a taxable supply, the recipient must pay, in addition to the consideration to be provided under this Agreement for that supply (unless it expressly includes GST) an amount (additional amount) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of that supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable provided that the supplier gives the recipient a tax invoice for the supply.
- c. If a party is entitled under this Agreement to be reimbursed or indemnified by another party for a cost or expense incurred in connection with this Agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which any input tax credit may be claimed by the party being reimbursed or indemnified, or by its representative member.
- d. The Slot Holder releases and discharges MGRA, to the fullest extent permitted under any Law, from any Claims or Loss arising from, in connection with or related to:
 - i. any supply made under or in connection with a Private Arrangement that is not a taxable supply on which GST is imposed; or
 - ii. any supply made under or in connection with a Private Agreement at a time which a party to that Private Arrangement is not or will not be registered for GST.

19.) GENERAL MATTERS

- a. MGRA and GRV will not reimburse any expenses (including travel expenses) incurred by owner/s and trainer/s in relation to greyhounds being selected to compete in the Race.
- b. All currency amounts quoted are in Australian dollars (\$AUD).
- c. All times are Melbourne Time.
- d. Nothing in this Agreement creates a joint venture, agency, partnership or common enterprise between MGRA and the Slot Holder.
- e. A notice, demand, consent, approval or communication under this Agreement (**Notice**) must be:
 - i. in writing, in English and signed by a person duly authorised by the sender; and
 - ii. hand delivered or sent by prepaid post or email to the recipient's address for Notices specified in the Slot Holding Details, as varied by any Notice given by the recipient to the sender.
- f. A Notice given in accordance with clause 19.)e takes effect when taken to be received (or at a later time specified in it), and is taken to be received:
 - i. if hand delivered, on delivery;
 - ii. if sent by prepaid post, the sixth Business Day after the date of posting (or the tenth Business Day after the date of posting if posted to or from a place outside Australia); or
 - iii. if sent by email, when sent by the sender unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee,
 but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.
- g. The Slot Holder is liable for the actions and omissions of any of its heirs, Representatives, permitted successors and assigns.
- h. These Terms, the Slot Holding Details and the Rules contain the entire agreement between MGRA and the Slot Holder with respect to its subject matter and supersede all earlier conduct and communications by the parties with respect to its subject matter.
- i. This Agreement may be executed in counterparts. All executed counterparts constitute one document.
- j. A party may sign electronically a soft copy of this Agreement, and bind itself accordingly. This will satisfy any statutory or other requirements for this Agreement to be in writing and signed by that party. The parties intend that:
 - i. any soft copy so signed will constitute an executed original counterpart, and any printout of the copy with the relevant signatures appearing will also constitute an executed original counterpart; and
 - ii. where a party prints out this Agreement after all parties that are signing electronically have done so, the first print-out by that party after all signatories who are signing electronically will also be an executed original counterpart of this Agreement. Each signatory confirms that their signature appearing in the Agreement, including any such print-out (irrespective of which party printed it), is their personal signature authenticating it.
- k. Part or all of a provision of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining parts of the provision or provisions of this Agreement continue in force.
- l. Any term by its nature intended to survive termination of this agreement survives termination of this Agreement.
- m. This Agreement is governed by the law of Victoria and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the Courts of Victoria.

MELBOURNE GREYHOUNDS

- THE MEADOWS -





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phoenix
2022